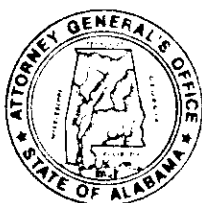


OFFICE OF THE ATTORNEY GENERAL 85-00120



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DEC 10 1984

Honorable James E. Turnbach
Attorney for City of Rainbow City
P. O. Box 29
Gadsden, Alabama 35902

Municipalities - Utility Boards -
Industrial Development Boards -
Officers and Offices

A member of the Industrial
Development Board of Rainbow City
may serve on the Utility Board of
that city.

Dear Mr. Turnbach:

Reference is made to the request by the City of Rainbow
City for an opinion from the Attorney General as to the
following matter:

"Can the City of Rainbow City appoint
to its Utility Board, which said board
was formed pursuant to Section 11-50-310,
et seq. of the Code of Alabama, as amended,
an individual who coincidentally serves
as a member of the Industrial Development
Board of the City of Rainbow City?"

Your question is to be answered in the affirmative.

Section 280 of the Constitution of Alabama, 1901 forbids
an individual from holding more than one office of profit.
However, a member of a municipal water board does not hold an
office of profit. Quarterly Reports of the Attorney General,
Vol. 81, p. 32. Therefore, there is no violation of this
provision if an individual serves as a member of a municipal
utility board and the city industrial development board at the
same time.

Honorable James E. Turnbach
Attorney for City of Rainbow City
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It was stated in the request that the Utility Board of Rainbow City was established under the provisions found at Code of Alabama 1975, Section 11-50-310 through section 11-50-324. My research reveals nothing in these statutes that would prohibit a member of a municipal utility board from serving on the city industrial development board. Furthermore, the Supreme Court of Alabama ruled in City of Mobile v. Cochran, 276 Ala. 530, 165 So.2d 81 (1964) that a municipal utility board organized under water board statutes is a distinct and separate corporation from the city that it serves. Therefore, officers and employees of such utility boards are not officers and employees of the city as to come under the municipal conflict of interest statute found at Code of Alabama 1975, Section 11-43-12. This law prohibits an officer or employee of a city from being directly or indirectly interested in a contract, work, or business, the price or cost of which is paid from the city treasury.

Municipal industrial development boards are established under Code of Alabama 1975, Section 11-54-80 through Section 11-86-101. Section 11-54-86 states that no officer or employee of the municipality shall be a director of the municipal industrial development board. However, considering the ruling of the Alabama Supreme Court in City of Mobile v. Cochran, supra, this provision would not prohibit a director of the industrial development board from serving as a director of the city utility board.

Therefore, in answer to the question presented, a member of the Industrial Development Board of Rainbow City may serve on the Utility Board of that city.

If our office can be of further assistance, please do not hesitate to contact us.

Sincerely,

CHARLES A. GRADDICK
Attorney General
By:



LYNDA K. OSWALD
Assistant Attorney General